

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 914 of 1991

to

FIRST APPEAL No 917 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

Hon'ble MR.JUSTICE N.N.MATHUR

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

ASSOCIATED BUSINESS CORPORATION

Appearance:

1. First Appeal No. 914 of 1991
GOVERNMENT PLEADER for Petitioner
SERVED for Respondent No. 1
UNSERVED for Respondent No. 2

2. First Appeal No. 915 of 1991
GOVERNMENT PLEADER for Petitioner
SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE N.N.MATHUR

Date of decision: 17/10/96

ORAL JUDGEMENT (Per Patel, J.)

These four appeals are preferred by the State challenging the proceedings arising out of two awards made by Arbitrator, which have been culminated in the judgment of learned 2nd Civil Judge, Senior Division, Bharuch in Misc. Arbitration Application No. 99 of 87 with MCA No. 10/88 and Misc. Arbitration Application No. 100/87 with MCA No. 11/88.

2. During the pendency of these appeals, this Court, (Coram: B.S. Kapadia & K.J. Vaidya, JJ) in C.A. No. 2999/91 in FA No. 914/91, directed the appellant State to deposit a sum of Rs.18 lakhs before the trial Court, out of which Rs.9 lakhs were permitted to be withdrawn by the original claimants, with some conditions as stated in the said order. The remaining amount of Rs.9 lakhs was directed to be deposited in a nationalised Bank.

Similarly, in C.A. No. 3000/91 in FA No. 915/91, this Court directed the appellant State to deposit a sum of Rs.12 lakhs before the trial Court, out of which Rs.6 lakhs were permitted to be withdrawn by the original claimants with some conditions and the remaining amount of Rs.6 lakhs was directed to be deposited in a nationalised Bank.

It is stated at the bar that the aforesaid amounts are lying deposited with the Bank till today.

3. Learned Advocate Mr. Nagarkar for the original claimant in all the appeals stated that the claimant has given an undertaking to the State to the effect that in view of the compromise arrived at between the State and the original claimant, all the proceedings initiated by the original claimant in connection with the work in question shall be withdrawn. He has produced copies of such undertakings along with copy of letter dated 30th April 1996 addressed by the Executive Engineer informing the Government Pleader that the parties have arrived at a settlement and appeals are not to be prosecuted further and are to be withdrawn. The amount which is deposited in the Bank as per the aforesaid order of this Court is, therefore, required to be paid to the original claimants.

4. In view of the aforesaid situation, learned Assistant Government Pleader seeks permission to withdraw

these appeals. Permission is granted. The appeals are disposed of as withdrawn. The original claimants are at liberty to withdraw the amount lying deposited in the Bank. The claimant is directed to file an undertaking in this Court in all these matters within a period of one week from today, to the effect that the claimant shall withdrawn all the proceedings initiated against the State in connection with the work in question.

The appeals stand disposed of accordingly.

csm./